

NEW MEXICO TAX RELIEF

FREQUENTLY ASKED QUESTIONS



Get relief from the worries, penalties and interest of unreported state taxes due prior to 2010. Apply for Tax Amnesty help now through September 30, 2010.

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Frequently Asked Questions: General information

What is tax amnesty?

Amnesty is a limited-time opportunity to come forward and report unreported or under-reported income and pay back taxes without incurring penalty. In addition, interest will not be assessed as long as the liability is paid within 180 calendar days of assessment.

When will amnesty be available?

The amnesty request period begins on June 7, 2010, and continues through September 30, 2010. Submit a signed amnesty application and agreement on or before September 30, 2010, or your request for amnesty will be denied.

Who qualifies for amnesty?

Anyone qualifies who has not filed a tax return or who needs to report additional tax and has not received an audit engagement letter from the Department for the tax program(s) and period(s) in question. You cannot be under current investigation for a tax-related criminal act. You also do not qualify if you are currently in bankruptcy proceedings unless you have a court order permitting full payment of taxes due. Finally, previously assessed liabilities cannot be brought into the amnesty.

What if I received an audit engagement letter?

If you have received an audit engagement letter, you do not qualify for amnesty. Each tax year and program stands alone for qualification. For example, if you received an engagement letter for tax years 2004-2006 for gross receipts tax, you are disqualified from gross receipts tax amnesty for 2004-2006. You may still qualify for other years and tax programs.

Which tax programs are eligible for amnesty?

Most state taxes and fees administered by the Taxation and Revenue Department under the Tax Administration Act are eligible. These programs include, but are not limited to, personal income, gross receipts, withholding, liquor excise, corporate income, workers compensation, oil and gas production, weight distance, tobacco products, and compensating tax. Please call 1-888-NM-TAX-RX if you are interested in a program and have a question about whether it is included in amnesty.

If I am in bankruptcy, can I qualify for the amnesty program?

Individuals and businesses in bankruptcy must seek a court order permitting them to participate and fully fund the payment of taxes prior to entering into an amnesty agreement.

Can I be accepted into the amnesty program if I am being investigated for tax fraud?

No. If there is an ongoing criminal investigation by the Tax Fraud Investigations Division (TFID), you are not eligible for the current amnesty program.

Will filing for amnesty increase my chances for an audit?

No. Filing for amnesty does not mean that you will be audited. On the other hand, you may be selected for an audit based on other information.

What are the eligible tax periods included in the amnesty program?

The program applies generally to all tax periods for which the original tax return was due before January 1, 2010.

Does the amnesty apply to International Fuel Tax Agreement (IFTA) or International Registration Plan (IRP) taxes?

No.

Does the amnesty apply to the Uniform Unclaimed Property Act?

No.

Frequently Asked Questions: Applying for Amnesty

How many times can I apply for amnesty?

You may apply for amnesty an unlimited number of times during the amnesty period.

Can I apply for amnesty multiple times for the same tax program?

Multiple applications per tax program will be allowed during the amnesty period.

How do I apply for the amnesty program?

Fill out and submit an amnesty application and agreement no later than September 30, 2010. You may download the application and agreement from www.taxamnesty.newmexico.gov. The Department will accept applications if by the end date they are postmarked, scanned and emailed, hand delivered, faxed, or dropped in an official TRD receptacle box outside a TRD district office and so long as there is a signed agreement with the application.

Can I file an extension for amnesty?

No. The amnesty application and agreement must be postmarked or otherwise received (see above) no later than September 30, 2010, or we must deny your amnesty application.

My business is not currently registered. How do I apply for tax amnesty?

We can register your business as part of the amnesty process. Submit an application, along with Form ACD-31015 Application for Business Tax Identification Number. You may download Form ACD-31015 from www.taxamnesty.newmexico.gov.

Can I protest the denial of my amnesty application?

Yes. If you submit an application for amnesty and we deny you, you can file a formal protest by filling out Formal Protest Form (Form ACD- 31094). You may download Form ACD-31094 from www.taxamnesty.newmexico.gov.

Where do I send my application and agreement?

Mail your completed application and agreement to:

New Mexico Taxation & Revenue Department
Audit & Compliance Division
Attn: AMNESTY GROUP, 6th Floor
P.O. Box 8485
Albuquerque, NM 87198-8485

Please write "AMNESTY" and your taxpayer identification number at the top of each page. You may also email your completed application to [*tax.amnesty.agreements@state.nm.us*](mailto:tax.amnesty.agreements@state.nm.us).

Will the Department accept an electronic signature on my application or agreement?

No. A signature or scanned signature is required on both documents.

Do I need to submit separate applications for each type of tax?

Yes.

What happens once I submit my application?

- The Department will review it and notify you whether you are approved or denied.
- If approved, we will indicate a date when you must provide all information, records and documents. No extensions to this deadline will be allowed.
- After all information, records and documents are received, the Department will create the assessment.
- From the date of assessment, you have 180 calendar days to pay in full or incur interest.

How far back should I file?

Taxpayers self-select the period(s) for which they are coming forward, but it may be helpful to consider the Department's assessment period when deciding. The normal assessment period is three years back from the end of the year the tax was due. If you have underreported any tax on a return by more than 25%, the Department may assess as far back as six years. If you have non-filed reports, the Department can go back seven years. If there is evidence of tax fraud, the Department may assess as far back as 10 years.

Why would you deny my application for amnesty?

We'll deny your application if you are:

- filing for taxes due after December 31, 2009;
- filing for a tax program and a period for which we have already sent you an audit engagement letter;
- filing for a period for which we have already assessed tax (unless you are reporting additional tax);
- under current fraud investigation, or
- currently in bankruptcy proceedings unless you have the court's permission to pay the resulting assessment.

What if I send my tax return with my application and agreement and I don't qualify?

If you sent tax returns with your application, and your application is denied, we will send the returns through the normal processing procedure.

Where do I get tax return forms?

Tax forms are available on our website, www.state.nm.us/tax.

Should I file my back returns?

You must be approved for amnesty before filing any returns under the amnesty program. Once approved for amnesty, you will work with an assigned reviewer who will guide you through the amnesty process including the process for filing any missing returns.

What is the deadline for providing information or returns under the amnesty program?

After your acceptance into the amnesty program you have 90 calendar days from the start date of the amnesty agreement to send in the necessary returns or records.

What is the "start date" of amnesty?

The "start date" is 10 calendar days after the Department signs the agreement.

Where can I ask a question about the Amnesty Program?

You may email questions to: tax.amnesty.questions@state.nm.us

Frequently Asked Questions: Making Amnesty Payments

Doesn't amnesty mean my taxes are forgiven and there is no requirement to pay?

No. Payment of the resulting liability is still required within 180 calendar days of assessment under amnesty.

What are my payment options?

You may include payment with your agreement if you wish or submit a payment at any time during the review process to the reviewer assigned to your review.

To make an electronic payment, go to [www.https://efile.state.nm.us/uls2/Logon.aspx](https://efile.state.nm.us/uls2/Logon.aspx)

Please note: when making electronic payments you must direct your payment to the last period of the amnesty agreement and select payment type "amnesty".

To make a credit card payment where available, call **(505) 841-6352** in Albuquerque or **1-800-285-2996** toll-free.

To mail a payment, please submit your check to the following address:

NM Taxation and Revenue-Amnesty
PO Box 2129
Santa Fe, NM 87504

Will I be charged a convenience fee if I use my credit card?

Yes. If you choose to make a credit card payment, there is a convenience fee of 2.49% charged by the third-party credit card vendor. The total charge, including the convenience fee and amnesty payment, appears on your credit card statement as a single charge.

What information should I include on my check?

Please write "AMNESTY" on the memo line of any check you send. Please also write on your check the tax ID number, tax program, and the date of the last period included in the amnesty. For example, if you received amnesty for 2006-2008 personal income taxes, the last period would be 12/31/08. If you received amnesty for 1/06-12/08 gross receipts taxes, the last period would be 12/31/08. Please submit a separate check for each tax program for which you received amnesty. This indicates that you would like your payment applied to the amnesty assessment.

What happens if I have an existing liability and I don't indicate where to apply my payment?

We will apply unlabeled payments to your oldest outstanding tax liability. In the case of taxpayers who have liabilities that predate amnesty, unlabeled payments are first applied to pre-amnesty debt.

What if I can't pay right now?

The amnesty program allows a 180-calendar-day grace period from assessment for payment. If the resulting liability is paid in full within 180 calendar days of assessment, no interest is due.

If I am due a refund of tax based on a tax return I have filed but still have a balance due on my amnesty agreement, will I receive the refund?

No. Section 7-1-29(C) NMSA 1978 says the Department may offset against any tax due as a result of amnesty any amount of tax to be refunded to the taxpayer.

Do I need to submit separate checks for each type of tax?

Yes. In addition, please list the following on each check: "AMNESTY", the tax identification number, the tax program, and the last period included in your amnesty agreement.

Frequently Asked Questions: Miscellaneous

Do I have to be a New Mexico resident to be eligible for amnesty?

All persons who owe New Mexico tax are eligible for amnesty including nonresidents. All eligibility restrictions apply.

For tax periods applicable to my payment of back taxes under the amnesty program, does my payment mean I'm completely released from liability for those periods?

No. The Department reserves the right to re-examine or audit any information submitted during the amnesty. Submitting payment does not close the period to further audit.

Following the amnesty period, what happens to taxpayers who still have not registered and/or paid their taxes?

The Department pursues individuals and businesses that don't pay their fair share of taxes. Please note that these taxpayers could voluntarily come forward after the Amnesty period is over and apply for a managed audit.

If I file for amnesty and then pay back taxes, can the resulting assessment be protested?

No. You waive your right to protest the assessment by signing the Amnesty Agreement.

What if I pay back taxes during amnesty but later determine I paid the wrong amount?

If you overpaid your taxes, you have waived your right to request a refund under the terms of the Amnesty Agreement. If you underpaid your taxes, you may apply for a regular managed audit to report additional taxes.

Will your Managed Audit (MA) program continue during the amnesty program?

Yes. Taxpayers may choose either the managed audit or amnesty program. Please note, however, that the amnesty program has strict time limits. Taxpayers who apply for the managed audit program and don't qualify won't be able to join the amnesty program after it ends.